

JPD-29
Ct No.01
29.07.2024
S.Pal

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (NDPS) 361 of 2024

In Re: - An application for bail under Section 483 Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Jaigaon Police Station Case No. 92/2024 dated 10.05.2024 under Sections 21(c)/29 of the NDPS Act, 1985.

And

In the matter of: Sekandar Miah @ Miya

...Petitioner

Mr. Hillol Saha Poddar
Ms. M. Das

... for the petitioner

Mr. Nilay Chakraborty,
Mr. Chattu Roy

... for the State

1. Learned counsel for the petitioner argues that the petitioner was arrested exclusively on the basis of the statement of a co-accused person. No recovery was made from the petitioner. It is argued that the arrest on the basis of the co-accused person's statement does not have any probative value in the eye of law.
2. Learned counsel for the State opposes the prayer for bail and submits that the bail petition of the co-accused person has been rejected by this Bench today itself.
3. Further, it is contended that the arguments raised by the petitioner can be thrashed out at the trial.

4. We are of the opinion, on a *prima facie* consideration of the matter, that the statement of a co-accused person is of doubtful veracity insofar as conviction is concerned, which raises doubt as to the involvement of the petitioner, which would mitigate the rigours of Section 37 of the NDPS Act. Particularly, since no recovery was also made from the petitioner at any point of time, we are inclined to grant bail.
5. Accordingly, CRM(NDPS) 361 of 2024 is allowed, thereby granting bail to the petitioner, on condition that the petitioner shall furnish bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Special Court(NDPS Act), Alipurduar.
6. Moreover, the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.
7. Moreover, the petitioner shall not leave the territorial jurisdiction of the trial court throughout the period of trial and shall attend each and every date of trial.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)